IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE L.NARASIMHA REDDY**

**WRIT PETITION NO : 22704 of 2004**

Between:

Golla Chinna Nagamma, W/o Golla Chennappa,
Sulthampuram Village, Adoni Mandal, Kurnool District.

**... PETITIONER**

AND

1 The Joint Collector, Kurnool District.
2 The Revenue Divisional Officer, Adoni, Kurnool District.
3 The Mandal Revenue Officer, Adoni, Kurnool District.

**...RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of mandamus declaring the action of the 2nd Respondent in proceeding Rc.M.1137/04 dated: 18-10-2004 as illegal, arbitrary, malafide against the provisions of Control Order 2001 and consequently direct the respondents to restore the authorisation of the petitioner by suspending impugned proceedings pending disposal of the appeal before the 1st Respondent.

**Counsel for the Petitioner: MR.K.V.RAGHU VEER**

**Counsel for the Respondents: GP FOR CIVIL SUPPLIES**

**The Court made the following :**

**O R D E R:**

The petitioner is a Fair Price Shop dealer of Sulthanpuram village, Adoni Mandal of Kurnool District. She was issued a show-cause notice dated 23.09.2004 by the second respondent, where under four charges were framed against her. She submitted an explanation on 11.10.2004. The second respondent passed an order dated 18.10.2004, suspending the authorization of the petitioner. Aggrieved thereby, the petitioner filed an appeal before the first respondent, together with an application for grant of stay. The first respondent rejected the stay application, and the appeal is pending. The petitioner seeks an appropriate direction to enable her to function as Fair Price Shop dealer.

Heard learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

In the show-cause notice dated 23.09.2004, the four charges leveled against the petitioner were that she was supplying 20 Kgs. of rice instead of 30 Kgs. to the holders of AAY cards, she was collecting Rs.10/- instead of Rs.9.50 ps, per litre of kerosene, she did not exhibit the stock-cum-price list, and did not maintain the accounts of Fair Price Shop. The petitioner submitted her explanation, and on consideration of the same, the second respondent was convinced that the second charge cannot be substantiated. He took the other charges as having been proved, and through the impugned order dated 18.10.2004, suspended the licence.

The petitioner filed an appeal before the first respondent aggrieved by the order of suspension, together with an application for grant of stay. Not being aware of the fact that the application for stay was rejected on 30.10.2004, he filed W.P.No.20325 of 2004. The said writ petition was disposed of, directing the first respondent to dispose of the appeal, preferably within a period of two weeks. The appeal is still pending.

The first respondent is conferred with the power to pass interim orders in the appeal filed before him. While considering an application for grant of stay, he is required to furnish reasons for granting or rejecting the relief. A perusal of the order dated 30.10.2004 discloses that except stating that the appeal is admitted and stay is rejected, not a semblance of reasoning is given. It cannot be said to be the result of an objective of proper exercise of power.

Further, the suspension imposed against the petitioner, is by way of substantive penalty. It is imposed after conducting an enquiry and recording findings. Whenever suspension is imposed as a substantive penalty, and not ordered as a measure pending enquiry, it is required to be for a specific period. There cannot be any suspension for indefinite period. Neither the second respondent, while passing the order of suspension, nor the first respondent while rejecting the application for stay, have taken this aspect into account.

Hence, the writ petition is allowed, directing that the petitioner shall be entitled to function as Fair Price Shop dealer till the disposal of the appeal by the first respondent. No order as to costs.

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8th December, 2004

Note: Issue copy in two days.

(B/o)

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To

1 The Joint Collector, Kurnool District.
2 The Revenue Divisional Officer, Adoni, Kurnool District.
3 The Mandal Revenue Officer, Adoni, Kurnool District.

4 Two C.Cs to the Government Pleader for Civil Supplies,

High Court Buildings, Hyderabad.

5 Two C.D.copies.